AFR (115)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

WRIT PETITION NO. 3515 OF 2003

Petitioner : Rup Narayan Sahu S/o Shri Sahani Ram, Aged about 23 years, R/o Village Chantipali, Tahsil Malkharouda, Distt. Janjgir-Champa (C.G.).

Versus

Respondents :1. State of Chhattisgarh, Through Secretary, Panchayat & Gram Vikash Vibhag Mantralaya, D.K.S. Bhawan, Raipur.

2. Collector, Janjgir, District Janjgir-Champa (C.G.).

3. The S.D.O. Sakti, Distt. Janjgir-Champa.

4. Gram Panchayat, Chantipali, Through its Sarpanch-Nirmal Sahu S/o Kiritram Sahu, Aged about 35 years, R/o Village Chantipali, Tahsil Malkharouda, Distt. Janjgir-Champa (Chhattisgarh).

5. Chief Executive Officer, Janpad Panchayat, Malkharouda, Distt. Janjgir-Champa.

6. Block Education Officer, Vikaskhand Malkharounda, Tahsil Malkharouda, Distt. Janjgir-Champa (C.G.).

7. Nand Kumar Chandra S/o Dharamlal Chandra, Aged about 25 years, R/o Village Kalami, Post Malkharouda, Distt. Janjgir-Champa (C.G.).

Present: Shri Manoj Paranjape, counsel for the petitioner.
Shri Alok Bakshi, Government Advocate for the respondents No. 1, 2, 3 and 6/State.
Shri Ranbir Singh Marhas, counsel for the respondent No. 5.
None for the respondents No. 4 and 7.

ORAL ORDER

(2nd February, 2006)

1. The present petition filed under Article 226/227 of the Constitution of India impugns the order dated 30.9.2003 (Annexure P-14) passed by the Collector, Janjgir-Champa in Case No. 26/A-89/23/2002-03.
2. The facts in nutshell are that the petitioner was appointed as Shiksha Kamri vide order dated 8.9.2003 (Annexure P-9) issued by the respondent No. 4. The appointment was done under the provisions of Shiksha Samvida Shikshak (Appointment and Service) Rules, 2001.
3. The petitioner applied along with several other persons for appointment to the post of Shiksha Karmi at Gram Panchayat Chantipali, Block Malkharouda, District Janjgir-Champa. The petitioner alone was selected and appointed vide order dated 8.9.2003.
4. Clause-3 of the terms and conditions of the appointment order provides that the service of the petitioner was terminable with one month's notice or one month salary in lieu of notice.

5. The respondent No. 7 being aggrieved by his non selection on the post of Shiksha Kamri, made a complaint to the Sub Divisional Officer (Revenue), Shakti. The complaint was under consideration before the Sub Divisional Officer (Revenue), Shakti, when the Collector, Janjgir-Champa exercising his power under the provisions of Rule 5 of the Madhya Pradesh Panchayats (Appeal And Revision) Rules, 1995 withdrew the case pending before the Sub Divisional Officer (Revenue), Shakti on his own motion to his office.

6. The Collector i.e. respondent No. 2 by his order dated 30.9.2003 (Annexure P-14), after hearing the complainant and without affording any reasonable opportunity of hearing to the petitioner quashed the order of the appointment dated 8.9.2003 passed in favour of the petitioner on the ground that the complainant namely Nand Kumar Chandra has obtained more marks than the petitioner.

7. Be that as it may, admittedly, the petitioner was not given any show cause notice before the date of termination as contemplated in the appointment order itself. Even otherwise, if any order is passed prejudicing the interest of a person, the person is entitled to opportunity of hearing, facilitating the person concerned to put his case before any order is passed.

8. In the present case, interest of the petitioner has certainly been prejudiced by order dated 29.9.2003 passed by the Collector, District Janjgir-Champa. The petitioner has not been afforded any opportunity of hearing to put his case.

9. For the reasons stated above, I am of the opinion that the impugned order dated 30.9.2003 is bad and deserves to be quashed. The petition is accordingly allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu